

EXHIBIT 16

Battaglia, Michael (ATR)

From: Sunshine, Jared <jsunshine@paulweiss.com>
Sent: Wednesday, May 31, 2023 5:55 PM
To: Battaglia, Michael (ATR); Wald, Kate
Cc: Duffy, Edward (ATR); Briggs, John (ATR); Sepulveda, Brendan (ATR); Wald, Kate; Finch, Andrew C; St. Matthew-Daniel, Eytayo; Cohen, Jay; Dearborn, Meredith; Nagley, Jared; Markel, Arianna (ATR); Pearl, Stephanie (ATR); Riblet, Sarah (ATR); Boury, Jean (ATR); Torres Paez, Estefania (OAG); william.matlack@mass.gov; Will Margrabe; Kogan, Olga; daniel.leff@mass.gov; Feder, Morgan; Hoffmann, Elinor; Komal.Patel@doj.ca.gov; swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov
Subject: [EXTERNAL] RE: United States et al. v. JetBlue Airways Corp. et al., No. 1:23-cv-10511 - Spirit's Investigation Privilege Logs

Michael,

We can confirm that Spirit will be providing a response for the documents by close of business June 2.

With regard to your generalized objections to communications with Campbell-Hill, FGS Global, and Okapi, we did direct you to the many pages contained in the interrogatory responses dated May 24, 2022; October 7, 2022; and October 19, 2022, describing the nature, duties, timing, and scope of retention as to each project undertaken.

As to Campbell-Hill and FGS Global, it is difficult for us to understand what additional noncumulative information we could provide beyond the itemized privilege logs and detailed submissions previously made. If you have any particularized questions, however, we are open to meeting and conferring to answer them.

As for Okapi, their role was discussed in a meet and confer session on December 30, 2022 with your colleagues Sarah Riblet and Brendan Sepulveda while providing to their apparent satisfaction sufficient information to allay the Division's concerns expressed at the time. As we conveyed to your colleagues, Okapi was primarily engaged in providing advice and information to Spirit (and, on occasion, its counsel) regarding the solicitation of a transaction and tender offer by JetBlue and associated communications with investors and shareholders. As with the other two advisors, we are open to meeting and conferring if you have particularized questions.

We remain hopeful that the forthcoming results of the rereview we are undertaking will satisfy any remaining concerns and suggest scheduling a meet and confer, if necessary, to follow your review of our June 2nd response.

Best regards,
Jared

Jared S. Sunshine | Practice Management Counsel
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From: Battaglia, Michael (ATR) <Michael.Battaglia@usdoj.gov>
Sent: Wednesday, May 31, 2023 10:33 AM
To: Sunshine, Jared <jsunshine@paulweiss.com>; Wald, Kate <kwald@paulweiss.com>

Cc: Duffy, Edward (ATR) <Edward.Duffy@usdoj.gov>; Briggs, John (ATR) <John.Briggs@usdoj.gov>; Sepulveda, Brendan (ATR) <Brendan.Sepulveda@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>; Finch, Andrew C <afinch@paulweiss.com>; St. Matthew-Daniel, Eytayo <TStMatthewDaniel@paulweiss.com>; Cohen, Jay <jaycohen@paulweiss.com>; Dearborn, Meredith <mdearborn@paulweiss.com>; Nagley, Jared <jnagley@paulweiss.com>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Pearl, Stephanie (ATR) <Stephanie.Pearl@usdoj.gov>; Riblet, Sarah (ATR) <Sarah.Riblet@usdoj.gov>; Boury, Jean (ATR) <Eugenie.Boury@usdoj.gov>; Torres Paez, Estefania (OAG) <estefania.torrespaez@dc.gov>; william.matlack@mass.gov; Will Margrabe <Will.Margrabe@dc.gov>; Kogan, Olga <Olga.Kogan@ag.ny.gov>; daniel.leff@mass.gov; Feder, Morgan <Morgan.Feder@ag.ny.gov>; Hoffmann, Elinor <Elinor.Hoffmann@ag.ny.gov>; Komal.Patel@doj.ca.gov; swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov

Subject: RE: United States et al. v. JetBlue Airways Corp. et al., No. 1:23-cv-10511 - Spirit's Investigation Privilege Logs

Jared,

Thank you for agreeing to provide revised entries for the select log numbers we identified last week. As you know, depositions are already underway, and this is a modest number of documents to re-review. Given that, we request that you let us know today whether Spirit can commit to providing a response for these documents by close of business June 2.

We raised the issue of Spirit's claim of privilege over communications with Campbell-Hill, FGS Global, and Okapi two weeks ago. In that time, Spirit has offered no additional information to help Plaintiffs evaluate these third-party privilege claims. Instead, Spirit has simply referred Plaintiffs to pre-complaint correspondence concerning Campbell-Hill and FGS Global, which, as previously explained, do not allow Plaintiffs to assess Spirit's privilege claim or how those claims are consistent with the limited exception to third-party waiver set out in *Dahl v. Bain Capital Partners, LLC*, 714 F. Supp. 2d 225, 227-28 (D. Mass. 2010). Moreover, Spirit has not—at any point—provided an explanation of Okapi's role or of why Spirit's claim of privilege over communications with Okapi is proper. Please also let me know today whether Spirit intends to provide any additional information to support its claims of privilege with these third parties, and if so, when.

Regards,
Michael

From: Sunshine, Jared <jsunshine@paulweiss.com>

Sent: Tuesday, May 30, 2023 2:25 PM

To: Battaglia, Michael (ATR) <Michael.Battaglia@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>

Cc: Duffy, Edward (ATR) <Edward.Duffy@usdoj.gov>; Briggs, John (ATR) <John.Briggs@usdoj.gov>; Sepulveda, Brendan (ATR) <Brendan.Sepulveda@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>; Finch, Andrew C <afinch@paulweiss.com>; St. Matthew-Daniel, Eytayo <TStMatthewDaniel@paulweiss.com>; Cohen, Jay <jaycohen@paulweiss.com>; Dearborn, Meredith <mdearborn@paulweiss.com>; Nagley, Jared <jnagley@paulweiss.com>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Pearl, Stephanie (ATR) <Stephanie.Pearl@usdoj.gov>; Riblet, Sarah (ATR) <Sarah.Riblet@usdoj.gov>; Boury, Jean (ATR) <Eugenie.Boury@usdoj.gov>; Torres Paez, Estefania (OAG) <estefania.torrespaez@dc.gov>; william.matlack@mass.gov; Will Margrabe <Will.Margrabe@dc.gov>; Kogan, Olga <Olga.Kogan@ag.ny.gov>; daniel.leff@mass.gov; Feder, Morgan <Morgan.Feder@ag.ny.gov>; Hoffmann, Elinor <Elinor.Hoffmann@ag.ny.gov>; Komal.Patel@doj.ca.gov; swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov

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Michael,

We have had an opportunity to review your list, and as a show of good faith, we have undertaken to voluntarily rereview the documents in question. Given the intercession of the Memorial Day weekend that immediately followed your provision of the list of log numbers on Friday afternoon, we do not expect to have the results for you today, but will

provide revised entries, as well as submit any documents on which we have reconsidered a claim of privilege, as soon as the rereview can be completed and any such submission prepared. We will keep you apprised on our progress.

Thanks,
Jared

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From: Battaglia, Michael (ATR) <Michael.Battaglia@usdoj.gov>
Sent: Tuesday, May 30, 2023 1:40 PM
To: Sunshine, Jared <jsunshine@paulweiss.com>; Wald, Kate <kwald@paulweiss.com>
Cc: Duffy, Edward (ATR) <Edward.Duffy@usdoj.gov>; Briggs, John (ATR) <John.Briggs@usdoj.gov>; Sepulveda, Brendan (ATR) <Brendan.Sepulveda@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>; Finch, Andrew C <afinch@paulweiss.com>; St. Matthew-Daniel, Eytayo <TStMatthewDaniel@paulweiss.com>; Cohen, Jay <jaycohen@paulweiss.com>; Dearborn, Meredith <mdearborn@paulweiss.com>; Nagley, Jared <jnagley@paulweiss.com>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Pearl, Stephanie (ATR) <Stephanie.Pearl@usdoj.gov>; Riblet, Sarah (ATR) <Sarah.Riblet@usdoj.gov>; Boury, Jean (ATR) <Eugenie.Boury@usdoj.gov>; Torres Paez, Estefania (OAG) <estefania.torrespaez@dc.gov>; william.matlack@mass.gov; Will Margrave <Will.Margrave@dc.gov>; Kogan, Olga <Olga.Kogan@ag.ny.gov>; daniel.leff@mass.gov; Feder, Morgan <Morgan.Feder@ag.ny.gov>; Hoffmann, Elinor <Elinor.Hoffmann@ag.ny.gov>; Komal.Patel@doj.ca.gov; swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov
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Jared,

Please let us know by the end of the day if Spirit intends to provide revised entries for the log numbers we provided on Friday. If Spirit has any questions, we can make ourselves available for a call.

Regards,
Michael

From: Sunshine, Jared <jsunshine@paulweiss.com>
Sent: Friday, May 26, 2023 1:54 PM
To: Battaglia, Michael (ATR) <Michael.Battaglia@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>
Cc: Duffy, Edward (ATR) <Edward.Duffy@usdoj.gov>; Briggs, John (ATR) <John.Briggs@usdoj.gov>; Sepulveda, Brendan (ATR) <Brendan.Sepulveda@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>; Finch, Andrew C <afinch@paulweiss.com>; St. Matthew-Daniel, Eytayo <TStMatthewDaniel@paulweiss.com>; Cohen, Jay <jaycohen@paulweiss.com>; Dearborn, Meredith <mdearborn@paulweiss.com>; Nagley, Jared <jnagley@paulweiss.com>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Pearl, Stephanie (ATR) <Stephanie.Pearl@usdoj.gov>; Riblet, Sarah (ATR) <Sarah.Riblet@usdoj.gov>; Boury, Jean (ATR) <Eugenie.Boury@usdoj.gov>; Torres Paez, Estefania (OAG) <estefania.torrespaez@dc.gov>; william.matlack@mass.gov; Will Margrave <Will.Margrave@dc.gov>; Kogan, Olga <Olga.Kogan@ag.ny.gov>; daniel.leff@mass.gov; Feder, Morgan <Morgan.Feder@ag.ny.gov>; Hoffmann, Elinor <Elinor.Hoffmann@ag.ny.gov>; Komal.Patel@doj.ca.gov; swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov
Subject: [EXTERNAL] RE: United States et al. v. JetBlue Airways Corp. et al., No. 1:23-cv-10511 - Spirit's Investigation Privilege Logs

Michael,

Thank you for providing the list of log numbers. We will review and revert as to any details on which a call may be helpful once we have had a chance to assess your request.

I hope you have a pleasant Memorial Day weekend.

Best regards,
Jared

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From: Battaglia, Michael (ATR) <Michael.Battaglia@usdoj.gov>
Sent: Friday, May 26, 2023 12:47 PM
To: Sunshine, Jared <jsunshine@paulweiss.com>; Wald, Kate <kwald@paulweiss.com>
Cc: Duffy, Edward (ATR) <Edward.Duffy@usdoj.gov>; Briggs, John (ATR) <John.Briggs@usdoj.gov>; Sepulveda, Brendan (ATR) <Brendan.Sepulveda@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>; Finch, Andrew C <afinch@paulweiss.com>; St. Matthew-Daniel, Eyitayo <TStMatthewDaniel@paulweiss.com>; Cohen, Jay <jaycohen@paulweiss.com>; Dearborn, Meredith <mdearborn@paulweiss.com>; Nagley, Jared <jnagley@paulweiss.com>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Pearl, Stephanie (ATR) <Stephanie.Pearl@usdoj.gov>; Riblet, Sarah (ATR) <Sarah.Riblet@usdoj.gov>; Boury, Jean (ATR) <Eugenie.Boury@usdoj.gov>; Torres Paez, Estefania (OAG) <estefania.torrespaez@dc.gov>; william.matlack@mass.gov; Will Margrave <Will.Margrave@dc.gov>; Kogan, Olga <Olga.Kogan@ag.ny.gov>; daniel.leff@mass.gov; Feder, Morgan <Morgan.Feder@ag.ny.gov>; Hoffmann, Elinor <Elinor.Hoffmann@ag.ny.gov>; Komal.Patel@doj.ca.gov; swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov
Subject: RE: United States et al. v. JetBlue Airways Corp. et al., No. 1:23-cv-10511 - Spirit's Investigation Privilege Logs

Dear Jared,

Thank you for your response. Based on our review of the pre-litigation correspondence from both Campbell-Hill and FGS Global, we remain skeptical of Spirit's claims of privilege for communications with these third parties (I note that Spirit has yet to provide an explanation of Okapi's role). To expedite Spirit's review of its own log entries, I attach a list of log numbers identifying attachments to communications with Campbell-Hill, FGS Global, and Okapi. If Spirit is willing to revise these log entries in short order, then that updated information may help us better understand Spirit's claims. Relatedly, it is our understanding that you are directing these same third parties to withhold documents in response to our subpoenas based on Spirit's claims of privilege. To the extent Spirit has questions regarding the attached list of documents or would like to further clarify its positions with respect Campbell-Hill, FGS Global, and Okapi, we are available for a call today at 3:00 pm ET.

Regards,
Michael

From: Sunshine, Jared <jsunshine@paulweiss.com>
Sent: Thursday, May 25, 2023 5:59 PM
To: Battaglia, Michael (ATR) <Michael.Battaglia@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>

Cc: Duffy, Edward (ATR) <Edward.Duffy@usdoj.gov>; Briggs, John (ATR) <John.Briggs@usdoj.gov>; Sepulveda, Brendan (ATR) <Brendan.Sepulveda@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>; Finch, Andrew C <afinch@paulweiss.com>; St. Matthew-Daniel, Eytayo <TStMatthewDaniel@paulweiss.com>; Cohen, Jay <jaycohen@paulweiss.com>; Dearborn, Meredith <mdearborn@paulweiss.com>; Nagley, Jared <jnagley@paulweiss.com>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Pearl, Stephanie (ATR) <Stephanie.Pearl@usdoj.gov>; Riblet, Sarah (ATR) <Sarah.Riblet@usdoj.gov>; Boury, Jean (ATR) <Eugenie.Boury@usdoj.gov>; Torres Paez, Estefania (OAG) <estefania.torrespaez@dc.gov>; william.matlack@mass.gov; Will Margrave <Will.Margrave@dc.gov>; Kogan, Olga <Olga.Kogan@ag.ny.gov>; daniel.leff@mass.gov; Feder, Morgan <Morgan.Feder@ag.ny.gov>; Hoffmann, Elinor <Elinor.Hoffmann@ag.ny.gov>; Komal.Patel@doj.ca.gov; swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov

Subject: [EXTERNAL] RE: United States et al. v. JetBlue Airways Corp. et al., No. 1:23-cv-10511 - Spirit's Investigation Privilege Logs

Dear Michael,

Thank you for your email. We appear to be speaking past each other and as such, we'd propose a meet and confer call to discuss the issues raised in your email. In advance of such a call, however, will you provide a list of the 1,032 documents the DOJ proposes that Spirit re-review for privilege? The list would facilitate a more productive conversation.

Further, we refer you to prior submissions to the DOJ by Campbell-Hill and FGS concerning their work for Spirit via letters dated May 24, 2022; October 7, 2022; and October 19, 2022. These letters should more than adequately address your questions regarding Campbell-Hill and FGS.

We are available to speak on Friday from 3pm to 4pm ET, or on Tuesday afternoon after 1:30 pm ET. We are aware that Monday is a federal holiday, but we can make ourselves available between 10:30am and 12:30pm ET on Monday if you would like to speak then.

Regards,
Jared

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From: Battaglia, Michael (ATR) <Michael.Battaglia@usdoj.gov>

Sent: Tuesday, May 23, 2023 12:59 PM

To: Wald, Kate <kwald@paulweiss.com>; Sunshine, Jared <jsunshine@paulweiss.com>

Cc: Duffy, Edward (ATR) <Edward.Duffy@usdoj.gov>; Briggs, John (ATR) <John.Briggs@usdoj.gov>; Sepulveda, Brendan (ATR) <Brendan.Sepulveda@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>; Finch, Andrew C <afinch@paulweiss.com>; St. Matthew-Daniel, Eytayo <TStMatthewDaniel@paulweiss.com>; Cohen, Jay <jaycohen@paulweiss.com>; Dearborn, Meredith <mdearborn@paulweiss.com>; Nagley, Jared <jnagley@paulweiss.com>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Pearl, Stephanie (ATR) <Stephanie.Pearl@usdoj.gov>; Riblet, Sarah (ATR) <Sarah.Riblet@usdoj.gov>; Boury, Jean (ATR) <Eugenie.Boury@usdoj.gov>; Torres Paez, Estefania (OAG) <estefania.torrespaez@dc.gov>; william.matlack@mass.gov; Will Margrave <Will.Margrave@dc.gov>; Kogan, Olga <Olga.Kogan@ag.ny.gov>; daniel.leff@mass.gov; Feder, Morgan <Morgan.Feder@ag.ny.gov>; Hoffmann, Elinor <Elinor.Hoffmann@ag.ny.gov>; Komal.Patel@doj.ca.gov;

swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov

Subject: RE: United States et al. v. JetBlue Airways Corp. et al., No. 1:23-cv-10511 - Spirit's Investigation Privilege Logs

Dear Kate,

I write in response to your May 21 letter regarding Spirit's investigation privilege logs. As a preliminary matter, staff's decision to use limited investigation resources to pursue tasks other than challenging Spirit's investigation logs in court during the investigation does not preclude Plaintiffs from now challenging Spirit's claims of privilege over relevant material in this litigation nor does it constitute undue delay.

Spirit's lack of specificity with respect to purported pre-litigation agreements between itself and the Antitrust Division, as well as the absence of any case law, does little to clarify Spirit's positions with respect to the issues raised by Plaintiffs in my May 16 letter. But, to avoid a protracted back-and-forth, Plaintiffs offer the following: that Spirit submit a revised log reflecting factually accurate details for attachments involving communications with Campbell-Hill, FGS Global, and Okapi. This request significantly narrows the documents identified in my May 16 letter from over 17,000 to 1,032. **Plaintiffs ask that Spirit provide these revised entries by May 30.**

Separately, with respect to Campbell-Hill, FGS Global, and Okapi, Spirit's letter offers no justification for its continued withholding of materials involving these third parties other than vague references to pre-litigation correspondence with the Division. If those letters offer explanations consistent with the test set forth in *Dahl v. Bain Capital Partners, LLC*, 714 F. Supp. 2d 225, 227-28 (D. Mass. 2010), please point us to specific excerpts. If Spirit is relying on other caselaw to support its assertions of privilege for these third-party materials, please direct us to those cases. Relatedly, your letter makes no attempt to explain the role(s) played by Campbell-Hill prior to it providing services for Spirit in connection with M&A activity in 2022. Plaintiffs ask again that Spirit please provide details regarding Spirit's pre-2022 relationship with Campbell-Hill. **Plaintiffs ask that Spirit provide the information requested in this paragraph by May 26.**

Regards,
Michael Battaglia

Michael D. Battaglia

U.S. Department of Justice | Antitrust Division
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Washington, DC 20530
Phone: 202-706-3393
michael.battaglia@usdoj.gov

From: Sunshine, Jared <jsunshine@paulweiss.com>

Sent: Sunday, May 21, 2023 3:49 PM

To: Battaglia, Michael (ATR) <Michael.Battaglia@usdoj.gov>

Cc: Duffy, Edward (ATR) <Edward.Duffy@usdoj.gov>; Briggs, John (ATR) <John.Briggs@usdoj.gov>; Sepulveda, Brendan (ATR) <Brendan.Sepulveda@usdoj.gov>; Wald, Kate <kwald@paulweiss.com>; Finch, Andrew C <afinch@paulweiss.com>; St. Matthew-Daniel, Eyitayo <TStMatthewDaniel@paulweiss.com>; Cohen, Jay <jaycohen@paulweiss.com>; Dearborn, Meredith <mdearborn@paulweiss.com>; Nagley, Jared <jnagley@paulweiss.com>; Markel, Arianna (ATR) <Arianna.Markel@usdoj.gov>; Pearl, Stephanie (ATR) <Stephanie.Pearl@usdoj.gov>; Riblet, Sarah (ATR) <Sarah.Riblet@usdoj.gov>; Boury, Jean (ATR) <Eugenie.Boury@usdoj.gov>; Torres Paez, Estefania (OAG) <estefania.torrespaez@dc.gov>; william.matlack@mass.gov; Will Margrave <Will.Margrave@dc.gov>; Kogan, Olga <Olga.Kogan@ag.ny.gov>; daniel.leff@mass.gov; Feder, Morgan <Morgan.Feder@ag.ny.gov>; Hoffmann, Elinor <Elinor.Hoffmann@ag.ny.gov>; Komal.Patel@doj.ca.gov; swalker@oag.state.md.us; Bryan.Sanchez@law.njoag.gov; jsutton2@ncdoj.gov

Subject: [EXTERNAL] RE: United States et al. v. JetBlue Airways Corp. et al., No. 1:23-cv-10511 - Spirit's Investigation Privilege Logs

Counsel:

Please see attached correspondence from Kate Wald in reference to the below.

Best,

Jared S. Sunshine | Practice Management Counsel
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Subject: United States et al. v. JetBlue Airways Corp. et al., No. 1:23-cv-10511 - Spirit's Investigation Privilege Logs

Counsel,

Please see the attached letter.

Regards,
Michael Battaglia

Michael D. Battaglia
U.S. Department of Justice | Antitrust Division
450 Fifth Street NW, Suite 8000
Washington, DC 20530
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